IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

COCP No.1400 of 2005
Date of decision: November 14, 2006.

Sukhbir Singh

...**Petitioner(s)**

v.

Shri Dalip Kumar & Ors.

...**Respondent(s)**

Present: Shri Ashok Singla, Advocate for the petitioner.

Shri G.S. Cheema, Sr. DAG, Punjab for respondents No.1 to 3.

Shri S.S. Bhinder, Advocate for respondents No.4 to 6.

Surya Kant, J.

This contempt petition has been filed, *inter-alia*, alleging willful and deliberate breach of the orders dated 6th August, 2001 (Annexure P-4) passed by the learned Civil Court at Giddarbaha and the order dated 6th June, 2002 (Annexure P-9) passed by the learned Additional Sessions Judge, Muktsar in a criminal revision petition arising out of proceedings under Section 145 Cr.P.C.

[2]. The dispute pertains to ownership and possessory rights of land measuring 292 kanals 9 marlas situated within the revenue estate of village Adhnia, Tehsil Malout, District Muktsar. Whereas, the petitioner claims the aforesaid land to be a *bachat* land to be jointly owned by the proprietors of the village, the Gram Panchayat of the village asserts it to be a *shamilat deh*

duly vested in it.

[3]. Some of the admitted facts may firstly be noticed. The subject land used to be leased out by the Gram Panchayat on year-to-year basis from the last so many years. The father of the petitioner, namely, Iqbal Singh, also took the aforesaid land on lease from the Gram Panchayat and he continued in possession thereof being the highest bidder in the subsequent annual auctions. Said Iqbal Singh had been depositing the lease money with the Gram Panhayat till the year 1992. He, however, refused to vacate the possession on expiry of the lease period on 21.5.1992. In order to evict Iqbal Singh from unauthorized possession of the subject land, the Gram Panchayat filed an eviction petition before the Collector under Section 4 read with other provisions of the Punjab Public Premises and Land (Eviction and Rent Recovery) Act read with provisions of the Punjab Village Common Lands (Regulation) Act, 1961. The Collector vide his order dated 18.2.1994 (Annexure R1/1) ordered eviction of Iqbal Singh and also imposed payment of 20 times lease money as penalty. Iqbal Singh filed an appeal before the Commissioner, Ferozepur Division, Ferozepur which was also dismissed vide an order dated 17.10.1995 (Annexure R1/2). Both the courts held that Iqbal Singh and his associates were unauthorized occupants over the Gram Panchayat land.

[4]. Iqbal Singh and his family (including the petitioner) thereafter approached this court by way of CWP No.17693 of 1995 in which the above mentioned ejectment orders were impugned. This Court dismissed the writ petition vide judgment and order dated 30.8.1996 except that the penalty imposed upon the father of the petitioner for use and occupation of the land in question, was reduced. This court categorically held that “we are of the

firm view that the petitioners deserve to be ejected in the eviction proceedings initiated against them as they have taken the disputed land on lease from the Gram Panchayat. It is well settled principle of law that no lessee can disclaim the title of his landlord and, therefore, on this principle alone the petitioners are liable to be thrown away."

[5]. According to the respondents, in execution of the eviction orders passed against the petitioner, his father and other family members, possession warrants were issued by the Collector and physical possession of the subject land was taken by the Gram Panchayat on 20.11.1996 and a *Rapat Roznamcha* No.158 to this effect, dated 12.12.1996, was duly recorded by the Revenue Patwari, a translated copy of which has been appended by the petitioner himself as Annexure P-23. Since then the Gram Panchayat has been auctioning the land from time to time. In the year 1996-97, the land was leased out to Mandar Singh for Rs.56,000/- whereas in the year 1998-99, it was auctioned in favour of Jagsir Singh son of Mohinder Singh for Rs.69,000/-. Similarly, in the year 2000-2001 the land was publically auctioned for Rs.1,04,500/-. In the year 2001-02 it was auctioned in favour of one Balwinder Singh for Rs.1,35,000/- (proceedings Annexure R1/5). A part of the auction money was duly deposited by Balwinder Singh vide receipt No.67 dated 4.4.2001.

[6]. It appears that untired of the previous round of litigation in which the petitioner and his family lost upto this Court and despite the eviction orders passed against them having attained finality, the petitioner filed a civil suit for declaration and permanent injunction to restrain the Gram Panchayat from auctioning the subject land. Surprisingly, on instructions of the then and outgoing Sarpanch of the Gram Panchayat, a

concessional statement was made before the civil court in terms whereof the following interlocutory order was passed by the civil court on 6.8.2001 (Annexure P-4):-

> "Ld. Counsel for both the parties have stated at bar that they have no objection if both the parties are directed to maintain status quo regarding possession over the suit land. Hence both the parties are directed to maintain status quo regarding possession over the suit land. Application u/o 39 Rule 1 and 2 CPC is disposed of accordingly." (emphasis applied)

[7]. Taking advantage of the aforesaid order 6.8.2001, it appears that the petitioner entered into forcible possession of the subject land which finds mention in a resolution passed by the Gram Panchayat subsequently on 8.5.2002 (Annexure P5/A) resolving to remove the petitioner's illegal possession from the land in dispute.

[8]. The petitioner's act of entering possession like a bull in China shop, also led to the initiation of proceedings under section 145 Cr.P.C. The petitioner impugned these proceedings before the learned Additional Sessions Judge through a revision petition and relying upon the order of the learned Civil Court dated 6.8.2001, reproduced above, it was contended that there is already a direction by the civil court to maintain status quo. The learned Additional Sessions Judge, Muktsar vide his order dated 6.6.2002 also reiterated the said direction.

[9]. Alleging willful and intentional breach of the above mentioned orders dated 6.8.2001 and 6.6.2002 (Annexures P-4 & P9), the petitioner has initiated these contempt proceedings against the officers of the District Administration as well as the lady Sarpanch of the Gram Panchayat.

[10]. In response to the show cause notice, reply affidavits have been filed by Smt. Harjit Kaur, Sarpanch of the Gram Panchayat as well as Dalip Kumar, Deputy Commissioner, Muktsar.

[11]. The facts noticed above; the eviction orders previously passed against the petitioner and his family; the orders passed by this Court upholding those eviction orders; and the revenue/official record to prove that possession of the subject land was actually taken by the Gram Panchayat and thereafter it has been auctioning the land on year to year basis, have brought brought on record by these respondents along with their respective affidavits.

[12]. As the above mentioned facts speak for themselves, the then Sarpanch of the Gram Panchayat was apparently in connivance with the petitioner and made a concessional statement before the civil court which was totally detrimental and prejudicial to the interest of the Gram Panchayat. The order to maintain status quo regarding possession was, thus, obtained by the petitioner fraudulently when he was actually not in possession of the land. Prima-facie, the learned Civil Court also, without going into the jurisdictional question as to how it had got jurisdiction in matters pertaining to *shamilat deh* when its jurisdiction is expressly barred under the Punjab Village Common Lands (Regulation) Act, 1961, not only entertained the suit but passed the aforesaid order on mere asking of the parties. Apparently, the petitioner is guilty of concealing material facts from the civil court. He was neither in possession of the subject land nor had any concern with it.

[13]. In this contempt petition also, unfortunately, the petitioner has deliberately concealed the material facts and has made averments in a

selective manner, especially regarding the eviction orders and the judgment passed by this court in writ jurisdiction upholding those eviction orders. The petitioner has twisted the facts in a manner to mislead this court with an oblique motive of arm-twisting.

[14]. Consequently, and for the reasons afore-stated, I do not find any merit in this contempt petition which is dismissed with costs of Rs.10,000/-. The petitioner is directed to deposit the amount of costs with the Gram Panchayat within one month from the date of receipt of a certified copy of this order.

[15]. The Registry is directed to send a copy of this order to:- (i) learned District & Sessions Judge, Faridkot; and (ii) learned Civil Judge (Senior Division), Giddarbaha.

Rule discharged.

November 14, 2006. [**Surya Kant**]
kadyan **Judge**